CONTEMPT—PETITION FOR RECALL OF JUDGE. The defendant circulated a petition for the recall of a judge and, in a statement of the grounds for the proposed recall, as required by the state constitution, alleged judicial misconduct relative to a pending trial. *Held,* in view of the constitutional provisions as to the recall of officers, the statement in the petition was privileged and the defendant was not guilty of contempt. *Marians* v. *People ex rel Hines* (Colo. 1917) 169 Pac. 155.

A court possesses the power to commit for contempt, according to the American view, in order, that it may prevent interferenee with the administration of justice. 5 Columbia Law Rev. 249. A publication of matter reflecting upon the conduct of a pending cause is held to interfere with the course of justice and to be a "constructive" contempt. *State* v. *Hipple Printing Co.* (1915) 36 S. D. 210, 154 N. W. 292; *People ex rel. Connor* v. *Stapleton* (1893) 18 Colo. 568, 33 Pac. 167. The courts have been inclined, however, to restrict their common law power to commit for "constructive" contempt. For example, at common law an unfavorable criticism of the conduct of any trial, past or pending, was contempt, but it is now generally held in the United States that the criticism must relate to a pending cause. Rapalje, Contempt 56; 5 Columbia Law Rev. 249. In certain instances they have made further restrictions on their power to commit for contempt so as to not interfere with other policies of the law. *Cf. State* v. *Circuit Ct.* (1897) 97 Wis. 1, 72 N. W. 193. Thus a lawyer is not guilty of contempt in charging the presiding judge with misconduct, in an application for a change of venue, *In re Smith* (1913) 54 Colo. 486, 131 Pac. 277; *cf. Ex parte Curtis* (1859) 3 Minn. 274, and it was once held that an unfavorable criticism of the merits of a pending prosecution was not contempt if made wholly for the purpose of preventing the re-election of the governor who had instituted the prosecution. *People* v. *Few* (N. Y. 1807) 2 Johns. *290. Many conflicting decisions have arisen as to the power of a legislature to deprive the courts of their power to commit for "constructive" contempt, 4 Columbia Law Rev. 65, but it would seem to be unquestioned that a state constitution can deprive them of that power. *Cf. Ex parte Hickey* (1844) 12 Miss. 751. Since neither truth, *Globe Newspaper Co.* v. *Commonwealth* (1905) 188 Mass. 449, 74 N. E. 682; *Hughes* v. *Territory* (1906) 10 Ariz. 119, 85 Pac. 1058, nor the absence of willful intent, *In re Independent Pub. Co.* (D. C. 1915) 228 Fed. 787; *People* v. *Freer* (N. Y. 1804) 1 Caines 518, would ordinarily be a defense to contempt proceedings, it would seem that the provisions of the Colorado constitution requiring that the petitioner for the recall of a judge state the grounds of the proposed recall, could not be made effective unless the petitioner be protected against punishment for "constructive" contempt.

CONTRACTS — APPARENT MISTAKE IN OFFER BY TELEGRAPH. — The defendant delivered to a telegraph company an offer to sell a carload of potatoes at $1.35 per bushel. Through a mistake in transmission the order as delivered to the plaintiff read 35 cents per bushel. The plaintiff accepted at once by telegraph. The potatoes were shipped by a bill of lading to the shipper's order with a draft attached for the price at $1.35 per bushel. On presentation the plaintiff refused to pay the draft and later tendered the amount at 35 cents per bushel. Delivery of the goods being refused, he sued the carrier and the offeror in replevin. *Held,* since the telegraph company was the agent of the offeror title passed on the tender of the contract price, and